

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FEDERAL DEPOSIT INSURANCE
CORPORATION, receiver for Ericson State
Bank, Ericson, Nebraska

Plaintiff,

vs.

CORY POULSEN; KC PROPERTY GUYS,
LLC, a Kansas Limited Liability Company; KC
PROPERTY GUYS, LLC, a Missouri Limited
Liability Company; SUPERIOR
RESTORATION & CONSTRUCTION, LLC, a
Kansas Limited Liability Company; TYCO
RESTORATION CONTRACTORS, LLC, a
Kansas Limited Liability Company; and TYCO
RESTORATION CONTRACTORS, LLC, a
Missouri Limited Liability Company.

Defendants.

8:20-CV-499

ORDER NUNC PRO TUNC

Pursuant to the Memorandum and Order ([Filing 47](#)) filed by this Court on July 1, 2021, the Court granted default judgment for the plaintiff, Federal Deposit Insurance Corporation, in the role of receiver for Ericson State Bank, Ericson, Nebraska (“FDIC-R”) against defendant Superior Restoration & Construction, LLC. [Filing 49](#). Plaintiff moves for clarification that the Court granted default judgment in favor of the FDIC-R, not the Federal Deposit Insurance Corporation (“FDIC Corporate”). [Filing 52](#).

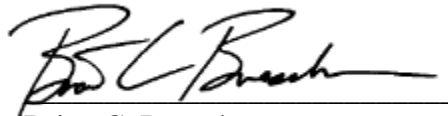
Courts recognize the difference in the two roles of the FDIC, receiver and corporate entity, and this Court agrees that it “is well-settled that FDIC operates in two separate and legally distinct capacities, each with very different responsibilities.” *Miller v. FDIC*, 738 F.3d 836, 838 n.1 (7th Cir. 2013) (citing *DeCell & Assocs. v. FDIC*, 36 F.3d 464, 469 (5th Cir. 1994)); see also *Maher v.*

FDIC, 441 F.3d 522, 525 (7th Cir. 2006); *Bullion Servs., Inc. v. Valley State Bank*, 50 F.3d 705, 708–09 (9th Cir. 1995). “The responsibility of the FDIC as receiver is to ‘wind[] up the affairs of failed institutions, including selling assets and paying creditors’ claims,’ whereas FDIC Corporate ‘functions as an insurer of bank deposits, and is charged with paying the insured deposits of failed banks within a reasonable time.’” *Miller*, 738 F.3d at 838 n.1 (quoting *DeCell & Assocs.*, 36 F.3d at 469).

Pursuant to the Memorandum and Order ([Filing 47](#)) and Default Judgment ([Filing 49](#)) filed on July 1, 2021, default judgment is granted in favor of Federal Deposit Insurance Corporation, in the role of receiver for Ericson State Bank, Ericson, Nebraska (“FDIC-R”), against defendant Superior Restoration & Construction, LLC nunc pro tunc as of July 1, 2021.

Dated this 19th day of July, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge